IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN INSOLVENCY

NOTICE OF MOTION NO.209 OF 2006
IN
PETITION NO.21 OF 2005

Shri. Ajit Maniklal Chokshi. ..Debtor.
And
Mrs. S.V.Desai. ..Applicant.

Mr. Kishore Jain for the Non Party Respondent.

Mr.Y.C. Parikh, O.A. present.

CORAM: A.S. OKA, J.
DATE : SEPTEMBER 4, 2007

P.C.

1. None appears for the applicant in support of the Notice of Motion.

2. I have heard the learned counsel appearing for the Non Party Respondent (Dolly Prabhakar Talari).

3. The order of adjudication has been passed on 31st March,2005 on the petition filed by the Debtor. The documents annexed to the affidavit of Non Party Respondent show that the flat No.4-C was purchased by the Non Party Respondent and one Shri. Dhanraj Talari for valuable consideration of Rs.63/- lacs. A copy of the agreement for sale dated 30th January, 2002 annexed to the said affidavit which is executed by the Insolvent

and one Smt. Hansa M. Chokshi discloses that the entire consideration of Rs.63/- lacs was paid by the purchasers under the agreement by six different cheques. My attention has been invited to orders dated 13th April, 2006 and 7th November,2006 annexed to the reply filed by Non Party Respondent, which show that as a consequence of deposit of requisite amount by the Non Party Respondent, the attachment of the flat was raised.

4. In view of what is stated in the reply filed by the Non Party Respondent, the prayers made in this Notice of Motion cannot be granted. The prayer is for sale of the flat by public or private auction. Accordingly, Notice of Motion is dismissed. No order as to costs. Official Assignee to inform about this order to the concerned Co.operative Housing Society.

(A.S. OKA, J.)